# Landowner Frequently Asked Questions (Revised August 2014)

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### I. Background and Overview Information

#### 1. What is fractionation? What is the result of fractionation?

Fractionation is the process of land parcels (or "allotments") being passed down through generations, and, as a result, the parcels gain more and more individual owners. Although the land itself is not physically divided, children and spouses of the landowner become partial owners of the same original parcel.

Many allotments now have hundreds and even thousands of individual owners, and because it is difficult to gain approval from all owners for land use, these allotments often lie idle and cannot be used for any economically beneficial purpose.

As of Sept. 30, 2013 there are approximately 150 reservations with fractionated tracts of land with more than 250,000 unique owners.

### 2. What is the Land Buy-Back Program for Tribal Nations?

The Secretary of the Interior established the Land Buy-Back Program for Tribal Nations to give individual landowners an opportunity to help address the problem of fractionation. The Program has \$1.9 billion available to consolidate fractional land interests across Indian Country.

### 3. Who is involved in the Land Buy-Back Program?

The Land Buy-Back Program operates from the Office of the Secretary of the Interior. The Department of the Interior (DOI) Land Buy-Back Program is working with Tribes, Tribal members, the Office of Special Trustee for American Indians (OST), the Bureau of Land Management (BLM), and the Bureau of Indian Affairs (BIA) to ensure the best information is available to voluntary sellers. Tribes participating in the Land Buy-Back Program will have an opportunity to enter into a cooperative agreement with the Program.

### 4. What lands will be purchased?

The Program will be purchasing fractional interests in trust or restricted land (all interests purchased through the Land Buy-Back Program will immediately be held in trust for the tribe with jurisdiction). The Program will not be purchasing fee lands.

### 5. Is the Land Buy-Back Program the same as the Tribes' land acquisition programs?

The Land Buy-Back Program is a separate program from a Tribal land acquisition program. You should check with your Tribe's land acquisition program for the status of their acquisition funding and if they are buying fractionated interests.

### 6. Is the Land Buy-Back Program a pilot program?

The Program is a 10-year program and is not considered a pilot program. The Secretary of the Interior established the Land Buy-Back Program to implement the land consolidation provisions of the Cobell Settlement. The Cobell Settlement provides for a \$1.9 Billion Trust Land Consolidation Fund to consolidate land interest across Indian Country. The Program initially referred to the first group of tribes as "pilots" in an effort to learn best practices from those initial implementation efforts. Based on discussions with tribal officials and tribal members, as well as the need for increased communications with tribes and for improved operational flexibility, the Program is now opening up to a larger group of tribes. Over the ten-year period, the Program may ultimately provide opportunities for up to approximately 150 locations with fractionated land to participate in the Program.

### 7. How much money is expected to be spent buying back fractional interests in land?

The Claims Resolution Act of 2010 states that \$1.9 billion dollars will be placed in the Trust Land Consolidation Fund. After administrative costs and the establishment of an Indian Education Scholarship Fund, a minimum of \$1.555 billion will be available to pay individual owners fair market value for the fractional interests they voluntarily decide to sell.

### 8. Will liens be assessed on tracts conveyed to Tribes?

No, there are no liens.

### 9. How does the Indian Education Scholarship Fund relate to the Buy-Back Program?

The Cobell Settlement provides for an Indian Education Scholarship Fund that will provide financial assistance to Native American students attending post-secondary vocational and college institutions.

- For every purchase of a fractional tract interest costing less than \$200, \$10 will be added to the Scholarship Fund.
- For every purchase of a fractional tract interest costing between \$200 and \$500, \$25 will be added to the Scholarship Fund.
- For purchases of a fractional tract interest over \$500, 5% of the purchase price will be added to the Scholarship Fund.

Funds placed into the Scholarship Funds do not come from the purchase amount paid to you -so they will not reduce the amount that an owner will receive on a purchase.

The Scholarship Fund will not be managed by the Department of the Interior nor the Bureau of Indian Affairs (BIA); it will be managed separately by two non-profit organizations; American Indian College Fund and the American Indian Graduate Center.

### 10. What happens to my land after I sell it?

Interests sold will remain in trust, but ownership will be transferred to the tribe with jurisdiction over the land. This effort strengthens tribal sovereignty by unifying tribal lands for the tribal benefit and use, such as economic development, housing, and cultural preservation.

### II. Participation and Eligibility

### 11. Do I have to sell my land?

No. Participation in the Land Buy-Back Program for Tribal Nations (Buy-Back Program or Program) is voluntary.

### 12. Why should I sell my land?

Selling your land back to the tribe will allow it to develop previously difficult to manage land for economic and tribal growth. Tribes may use the land to build homes, community centers, businesses, and much more. Additionally, for each land sale, the Department of the Interior will contribute a percentage of the proceeds (up to \$60 million) to the Indian Education Scholarship Fund for American Indian and Alaska Native students.

### 13. How will individuals be able to sell their fractional interests in land?

Once the Buy-Back Program begins purchasing interests, it will be scheduling specific reservations for implementation. Once a reservation is scheduled for implementation, and values have been determined, individuals owning purchasable fractional interests in that reservation will receive an offer package describing how they can sell their fractional interests in land.

<u>Note</u>: If an individual owns interests on multiple reservations they could receive separate offers; one for each reservation. These offers will not be received all at the same time. For example, if an individual receives an offer for their Pine Ridge lands but also owns interests at Lower Brule and Rosebud, they may receive separate offers at a later date.

Information on selling fractional interests will be distributed through outreach events and through local media outlets prior to and during the actual Buy-Back Program initiatives at each reservation.

### 14. What lands are purchasable?

There are approximately 150 reservations with 2.9 million purchasable fractional interests owned by approximately 243,000 individuals (the whereabouts of approximately 13 percent of these individuals are currently unknown). A fractionated tract is a tract held in trust or restricted status that has 2 or more owners. Approximately 90% of the fractional interests are located in approximately 40 reservations. The Program will be purchasing fractional interests in trust or restricted land (all interests purchased through the Buy-Back Program will immediately be held in trust or restricted status for the tribe with jurisdiction). The Program will not be purchasing fee lands. The Buy-Back Program will only purchase interests from landowners who are willing to sell their fractional interests.

### 15. What reservations will be involved?

Following government-to-government consultations, the Department has refined the key criteria that will guide initial implementation of the Program and the initial locations where offers will be made. Specifically, the Buy-Back Program is considering a number of factors as it moves forward, including: severity of fractionation; degree of ownership overlap between locations; geographic location to maximize efficiency and resources; appraisal complexity; and readiness or availability of tribal staff. In particular, we are looking to involve various types of tribal communities, with different levels of tribal involvement, at the outset of the Program – including locations with relatively fewer fractionated lands. A list of reservations where initial implementation will occur will be published on the Program's website.

Once a reservation is scheduled for implementation, the Program will conduct outreach (newspaper, Public Service Announcements on the radio, community meetings), on the reservation and release further information to individuals owning within that reservation, to ensure that individuals are aware of the opportunity to participate in the Buy-Back Program.

### 16. What are the criteria for purchase of a tract?

The Buy-Back Program will send offers to as many individuals as possible considering the following purchase factors to identify tracts:

- Tribal Priority Tracts
- Level of Fractionated ownership
- Tract Values
- Interested/Willing Sellers

There is no fixed formula. The purchase factors and associated values/rates will be different for each reservation. The Buy-Back Program will continuously analyze and adjust the purchase factors during the time it spends at each reservation to obtain the most benefit for both the willing seller and the tribe.

### 17. How are reservation purchase ceilings determined?

To maximize the number of reservations participating in the Buy-Back Program, the Department will use initial purchase ceilings at each reservation where the Buy-Back Program is active. In

particular, the Department will apply a formula that considers three factors relevant to fractionation, including: the total number of purchasable fractional interests within a reservation; the number of fractionated tracts within a reservation; and the number of acres related to those fractional interests. This formula establishes an initial, maximum amount of the Fund that could be used to purchase fractional interests within any one reservation.

### 18. Will the Buy-Back Program purchase land interests that I own in fee status?

No, the Buy-Back Program may only purchase interests held in trust or restricted status.

### 19. Will the Buy-Back Program purchase life estate interests?

No, life estate interests are beneficial interests that are not purchasable interests under the Land Buy Back Program for Tribal Nations\*

\*Land Buy-Back Program for Tribal Nations Initial Implementation Plan, Appendix B-1 Definitions and Explanations, December 2012

### 20. What happens to the land interests for Whereabouts Unknowns?

These interests can be purchased. However, the Buy-Back Program hopes to identify **only** willing sellers, whose addresses are current, to actively participate in the Program.

Before these interests can be purchased, the following requirements must be met:

- The Cobell Land Settlement Agreement and enacting legislation contain language that requires the Department to make stringent notifications and undertake efforts to locate fractionated landowners of trust or restricted property.
- If, after five (5) years, these owners cannot be located, they shall automatically be deemed to have consented to the conveyance of fractionated interests that are located on a parcel of highly fractionated land.
- Any interests purchased from whereabouts unknown (WAU) individuals will be paid for at Fair Market Value and the funds will be deposited in the individual's Individual Indian Money (IIM) account.

### 21. Will the trust or restricted status of the fractionated interest change when the U.S. acquires and consolidates the interest?

No. These acquisitions will result in trust to trust conveyances. All land purchased by the Buy-Back Program will be held in trust by the United States on behalf of the Indian tribe who has jurisdiction over the land.

# 22. How will the Buy-Back Program affect me if I have a Home Site Lease or another type of lease on any of the tracts in which I have an owner interest?

If you are currently living on or utilizing the land in which you own an interest, and do not have a lease or permit, you should contact your local BIA Realty Office before selling your ownership interest. Existing leases will run their term.

### 23. What happens if I own fractionated shares at several different locations?

When the Land Buy-Back Program is implemented on the reservation where you own fractionated interests, you may receive an offer package. The offer package will include a cover letter that provides a Program overview, instructions on how to complete required documents, one deed, a purchasable interest inventory that outlines your fractional ownership interests presented to you for purchase on that reservation with corresponding fair market value for each tract, township level maps showing general location of tracts, and a self-addressed return envelope. If you own land on

more than one reservation, you may receive multiple offer packages over the course of the ten-year program.

### 24. Does selling my land impact my ability to receive individual settlement payments from the Cobell Settlement?

No, selling land does not jeopardize your ability to receive Cobell settlement payments. Please visit <a href="http://www.doi.gov/cobell/faq.cfm">http://www.doi.gov/cobell/faq.cfm</a> to learn more about Cobell Settlement Payments.

### 25. If I sell some of my tracts, can I later decide to sell more of them?

Once you submit a deed to the Program for processing, you cannot submit a second deed from your original offer. When a sale is completed, the original offer will be closed and the Program cannot process multiple deeds for a landowner under the same offer set.

If you have already sold some of your tracts and wish to sell more, you can register as a willing seller with the Trust Beneficiary Call Center (1-888-678-6836). If you do this, you may receive a second offer if and when a subsequent wave of offers is made at your location.

Be sure to carefully consider the results of selling your owner interests. If you choose to sell only some of your interests, you may not be able to sell the rest at a later date.

### III. Timing

#### 26. When will individuals be able to sell their interests?

The Buy-Back Program began implementing the Program and purchasing interests at a small number of reservations at the end of 2013. The Buy-Back Program will continue to expand to other reservations over the next few years, and owners will receive information about how they can sell their interests when a reservation, in which they own land, is scheduled for implementation of the Program. The Buy-Back Program will limit sales at implementation locations to ensure that as many reservations and individuals as possible will be able to participate in the Program.

#### 27. How long does the Department have to implement the Buy-Back Program?

Per the terms of the Cobell Settlement Agreement, the Department has 10 years from final approval of the settlement, which occurred on November 24, 2012.

# 28. How long does the Program plan to spend at each location? Why can't the Program be at a location for the full 10-year period?

The Program plans to spend 18 to 24 months at each location; however, this timeframe may be adjusted. Tribes may work with the Department to determine an appropriate timeframe based on their individual needs while negotiating their cooperative agreements with the Buy-Back Program. Due to limitations on administrative costs as set forth by the Cobell Settlement Agreement, the Program cannot support a long-term presence at each location.

#### 29. Are the appraisals for the Buy-Back Program completed?

No. The appraisals will be completed as close to the offer date as can be reasonably managed for each location. The appraisal completion dates will vary for each reservation depending on the scheduling and sequencing.

### 30. Is the Indian Land Consolidation Program still reaching out to landowners?

The Land Buy-Back Program is a separate program from Tribal land acquisition programs and the Indian Land Consolidation Program (ILCP). As of 10/22/13, the ILCP is no longer acquiring fractional interests.

### IV. Payment

### 31. How much will individuals get for selling their fractional interests?

Willing sellers will receive fair market value for their interests they choose to sell. The Office of the Special Trustee for American Indians (OST) - Office of Appraisal Services (OAS) will conduct an appraisal to determine the fair market value for each tract of land that meets the criteria for purchase by the Program.

The value of specific fractional interests will be based on the interest's proportion to the whole tract. For example, if you own a 5% interest in a fractionated tract, then you would receive 5% of the fair market value of the whole tract, if you decide to sell.

If there are mineral or timber rights associated with a property, they will be included in the valuation process. For those situations where mineral rights have a very small or no contributory value, a payment of \$7.50 per acre will be included in with the total value of the land specifically to account for the conveyance of the mineral rights.

In addition, the Buy-Back Program will provide landowners with a base payment of \$75 per offer, regardless of the value of the land, based on estimates for the time and effort required for individual landowners to proceed through the acquisition process and to facilitate sales.

## 32. Why is the amount of my offer more/less than ILCP offers made in the past? Does fair market value change over time?

The Indian Land Consolidation Program purchased interests from willing sellers at fair market value, at the time those interests were purchased by ILCP. Fair market value is based on the current market and circumstances, and it changes over time. As a result, the values we are now offering under the Buy Back Program for interests in a tract may not be the same as previous ILCP values for interests in the tract.

# 33. Does the \$75 Base Payment paid to individuals to offset costs that landowners incur in responding to offers come out of the \$1.555 billion Land Purchase Fund or out of the \$285 million Administrative Fund?

The \$75 base payment paid to individuals comes out of the Land Purchase Fund. The base payment of \$75 per offer (not per interest) was designed to help to offset the time and costs that owners may incur in responding to purchase offers. The amount is consistent with hourly wage rates and the anticipated amount of time it would take an owner to complete an offer package. The base payment is a payment that is in addition to the appraised value of the interests purchased. The decision to provide this base payment was a direct result of government-to-government consultations between the Department and Indian country.

### V. Willing Seller Questions

### 34. I am willing to sell my owner interests. What is required?

If you have not received a purchase offer, there is nothing more you need to do at this time, other than making sure your Individual Indian Money (IIM) account information is current and letting the Trust Beneficiary Call Center (1-888-678-6836) know whether you are interested in selling your

interests. The Call Center can identify you as an interested seller and will make sure your current name and contact information are on file.

First, owners will not receive a purchase offer until:

- The reservation containing their fractional owner interests is scheduled for implementation,
- Appraisal work has been completed, and
- The analysis of the purchase criteria for the Buy-Back Program on the reservation is completed.

<u>Second</u>, please understand that by selling your fractional interests on income producing tracts of land (e.g., tracts with a lease, contract, or permit), you will no longer receive revenue from those tracts. Any future revenue will be paid to the new interest owner.

If you understand these two facts, we can identify you as a willing seller. At this time, you can contact the Call Center at 1 (888) 678-6836 to register your desire to sell your interests, provide your current contact information, and ask any questions you may have. The Call Center will need your name, Social Security Number, Individual Indian Money account number, and current address.

### 35. Will I need to update my IIM account information?

Yes, we will need your current address and to confirm that we have your Social Security Number.

### 36. When and how will I receive a purchase offer?

You will only receive a purchase offer if: (a) the reservation you own fractional interest on is scheduled for implementation of the Program, (b) you have been identified as owning an interest in a fractionated tract of land (defined as a tract in trust or restricted status with two or more owners), (c) the tract has been appraised, and (d) your interests meet the purchase factor or criteria for the reservation.

If these conditions are met, you will receive, in the mail, a purchase offer package which includes:

#### A Cover Letter

- **Instructions (on Page 4)**: The instructions explain how to fill out the documents necessary to complete the sale of your fractional ownership interests.
- **Deed**: The Deed is the legal document for the conveyance of any fractional ownership interests you choose to sell, as reflected on the Purchasable Interests Inventory. Completing and returning the Deed will signify your acceptance of this Purchase Offer in whole or part.
- Purchasable Interests Inventory (Inventory): The Inventory lists your ownership interests in each tract of Indian trust or restricted land that is eligible for purchase under the Buy Back Program, and the value of your interests in each tract. There are two parts to the Inventory: a SUMMARY and a DETAIL section. Additional information, including a legal description of each tract and the Scholarship Fund contribution for each of yours interests, is included in the DETAIL section. Use the "Item" number for cross reference between the SUMMARY and the DETAIL section.
- **Map(s):** Shows the general location of the tracts of land that include your ownership interests, at the Township level.
- **Self-Addressed Return Envelope:** Allows you to return the completed Purchase Offer free of charge for processing by the Bureau of Indian Affairs (BIA).

### 37. Will I receive a copy of the Deed and Purchasable Interests Inventory?

You may make a copy of the Deed and Purchasable Interests Inventory before you return it, as you will not be receiving a copy of the Deed after the conveyance is completed. A copy of the transaction documents may also be requested from the BIA Reality office. You will also receive an Acknowledgement Notice in the mail confirming the completion of the sale and the amount of funds deposited to your IIM account.

Additionally, you will see the conveyance or transfer of the interest in each tract on a subsequent Quarterly Statement. The Quarterly Statements that follow will not include information on interests where ownership was conveyed to the Tribe.

### 38. Do I have to sell everything?

No. You may decide to sell some, none or all of your interests. You may make this decision when you receive the Purchasable Interests Inventory (Inventory).

If you decide not to sell any of the tracts listed on the Inventory, return nothing. Neither the Deed nor the Inventory has to be returned if you decide not to sell.

#### 39. Is this income taxable?

No. Under the Internal Revenue Service Ruling 57-407, income derived by an Indian from the sale of trust property is not subject to Federal Income Tax

## 40. Will funds from the sale be considered a source of income that affects my ability to participate in assistance and social service benefit programs?

Individuals participating in any type of government assistance program should find out how funds received from the sale of their trust or restricted land interest may be counted by the assistance program. Each state and Federal program sets forth its own eligibility requirements.

### 41. What happens to my IIM account after I sell?

If you sell all interests that you hold, then your IIM account will be closed because selling your owner interests in tracts of land that produce revenue means that you will no longer receive that revenue. Please note that the account will only be closed after you receive payment for the sale of all of your interests. You will receive one final Statement of Performance showing the transaction of sale to the tribe. If you inherit new interests, your IIM account will be re-opened with the same account number. If you retain some of your interests your IIM account will remain open and you will continue to receive your Statement of Performance showing all land interests you retain and any income generated as a result of those interests.

### 42. What if I change my mind about selling?

Be sure to carefully consider the results of selling your owner interests. Selling your owner interests in tracts of land that produce lease income means that you will no longer receive that income.

Once the purchase package is approved, and funds are transferred into your IIM account, the purchase is final.

#### 43. If I choose not to sell my interests, how do I make sure my heirs get this land?

The Office of the Special Trustee for American Indians (http://www.doi.gov/ost/index.cfm) can provide more information on estate planning options under the American Indian Probate Reform Act (AIPRA).

# 44. Can you tell me if my brother/sister/etc. is going through with the sale? Can you tell me how much my relatives (mom, sister, dad, etc.) received for their land? Can you tell me if (name of person) sold everything? Can my husband or other relative call in for me?

No. The Privacy Act of 1974 prevents us from sharing information without written permission from the individual landowner.

### VI. Appraisals

### 45. Does an appraisal determine the value that I will receive for the tracts in which I have an owner interest?

Yes, an appraisal will determine the Fair Market Value (FMV) that will be offered for purchase of individual interests in various trust or restricted Indian land. (Note: An offer to purchase may or may not be presented for all interests owned by an individual.)

### 46. Can I request an appraisal?

The Program is working with tribes to identify which lands to appraise. If you are interested in participating in the Program, the Call Center (1-888-678-6836) can indicate that you are a potential willing seller.

#### 47. What is the Fair Market Value?

Fair Market Value is a licensed appraiser's estimate of what a property would sell for in an open and competitive market. It is what a ready, willing and able buyer might pay for a property in the current market. Fair Market Value will be the basis in determining the amount that an owner will be paid for their owner interest share in the tracts that the owner decides to sell.

#### 48. How is the value of the land determined?

Properties are compared to similar properties that have sold in the area. Adjustments are made for the differences between that property and the similar properties that have sold, which provides a value estimate. The value estimate is being performed by a licensed appraiser.

An appraisal is the act or process of developing an opinion of value. A determination of value is developed and reported by a licensed appraiser researching many factors, including location, local market values and sales patterns, condition of the property, and zoning. One of the methods to calculate an accurate value is to use sales of comparable properties located near the subject property, which have recently sold. The subject property is compared to the sales to see how it aligns or differs with the comparable sales in many factors which may include size, location, access, utilities, etc. The appraiser then analyzes and makes adjustments to compensate for differences between the comparable sales and the subject property and reconciles for a final opinion of value.

#### 49. Is the Fair Market Value the same for each tract in which I have an owner interest?

The Fair Market Value may be the same or different for each tract, depending on a variety of factors, including land use, the location, acreage, access, and local market conditions. For example, you may own an interest in a 50-acre agriculture tract that is planted in dry crop (wheat). You might also own an interest in another tract that is a 50-acre agricultural tract, but this tract is an irrigated apple orchard. Upon researching the market, the appraiser is finding comparable sales of irrigated orchards in the area running at \$3,000 per acre, and dry crop running at \$500 per acre. Another example is that you may have two 50-acre tracts adjacent to each other, and each is dry crop running

at \$500 per acre. There is a high probability the value will be the same. Each property is unique and may have a different value.

### 50. What is the "shelf life" of the Fair Market Value for my tracts?

Because continual reassessment of market values is not feasible, given the Program's limited timeframe and limited administrative funds, the Program is establishing an administrative appraisal validity period of up to nine months from the date of valuation. Each offer will explicitly identify the appraisal date, and the owner can obtain information about how the fair market value was assessed at that time. If the owner believes the appraisal is out of date, the owner could simply refuse to sell.

### 51. Where can I find out what the Fair Market Value is for each tract in which I hold an owner interest?

This information can be found within the Purchasable Interests Inventory which is included with the Purchase offer Package. Please note, the Buy-Back Program will only be providing information on the FMV to those individuals whose lands have been selected for purchasing by the Program.

### 52. Will my mineral and timber rights be included in the valuation?

Yes, if there are mineral or timber rights associated with a property, they will be included in the valuation process. Please note, these rights may have very small or no contributory value if there are no minerals or timber present or if there is no market for the minerals or timber. For those situations where the mineral rights have a very small or no contributory value, a payment of \$7.50 per acre will be included in with the total value of the land specifically to account for the conveyance of the mineral rights.

### 53. Will buildings be included in the valuation?

As a general rule, the Department considers permanent improvements, such as buildings, to be non-trust-property.\* There may be circumstances, however, where improvements to property have a material effect on the highest and best use of a fractionated tract. Where the appraiser determines that improvements have changed the highest and best use and there are not sufficient like properties to allow for mass appraisal, such properties may not be included in mass appraisal but will be set aside for consideration – depending upon tribal priorities and availability of funding – for a site-specific appraisal.

\* 76 Fed. Reg. 7,500, 7,501 (Feb. 10, 2011)

### 54. If a person believes there is something valuable beneath the surface of their land, are they responsible for a separate valuation?

No, the landowner is not responsible for a separate valuation. The US Government is responsible for the valuation of the property (surface and subsurface rights).

If that same person owns the combined estate (mineral and surface), then the mineral values are considered in the Highest and Best Use Scenario. The owner of any rights can confirm that they are being paid for all their rights and that all those rights were considered in the valuation by checking that such rights were included in the offer packet.

# 55. Why is my land that is adjacent to the same type of land off the reservation, valued for less? Is that truly fair market value?

Without specifics on the subject property and the appraisal, it would be difficult to answer this question. The difference in value of properties on and off reservation can result from various

factors affecting each property and the values are not based on whether the property is trust or fee. OAS values properties as if "fee simple". The appraisal reports the opinion of market value.

### 56. Why is the Program using mass appraisal techniques?

The breadth, scale, limited funding, and limited life span of the Program necessitates the use of mass appraisal methods where appropriate. Such use will result in greater efficiency and consistency in valuations, enabling the Program to value many acres simultaneously. It will also assist in ensuring effective, efficient, and expeditious use of the Fund, and reduces the risk of being required to return some portion of the Fund to the Treasury.

The Program will use market studies or mass appraisal techniques to appraise homogeneous, non-complex, vacant lands that have comparable land sales available. In many highly fractionated Indian ownership areas, it is common to have agricultural properties that are similar in use and have active/consistent markets or comparable sales data that the Department can use in its appraisals. The Program will use the mass appraisal approach in these situations as appropriate. The Program will not use mass appraisals for commercial or other lands within urbanized zones where greater variation may exist.

All appraisal methods used by the Department will conform to the Uniform Standards of Professional Appraisal Practice (USPAP). To ensure that the valuation methods and techniques meet industry standards, the Department also obtained a third-party review of its valuation techniques from The Appraisal Foundation (TAF). TAF is a non-profit, non-partisan organization, authorized by Congress, dedicated to the development of appraisal standards in the United States and to establishing qualifications criteria for appraisers. TAF's analysis, the Department's response to specific recommendations, and the plan outlining the Program's appraisal methodologies, are available on the <u>Program's website</u>.

### 57. Will individuals be able to negotiate the value of the land?

No. Due to administrative time and cost constraints as set forth by the Cobell Settlement Agreement, the Program does not have the time or resources to negotiate each sale price. If an owner is not satisfied with the amount offered for the sale of their interests, they may decline to sell. Additionally, individuals can sell some of their interests but keep others.

### VII. Acquisition

### a. Purchase Offer

### 58. What is included in the Purchase Offer Package?

A purchase offer package includes:

- Cover Letter
- **Instructions (on Page 4):** The instructions explain how to fill out the documents necessary to complete the sale of your fractional ownership interests.
- **Deed**: The Deed is the legal document for the conveyance of any fractional ownership interests you choose to sell, as reflected on Purchasable Interests Inventory. Completing and returning the Deed will signify your acceptance of this Purchase Offer in whole or part.
- Purchasable Interests Inventory (Inventory): The Inventory lists your ownership interests in each tract of Indian trust or restricted land that is eligible for purchase under the Buy Back Program, and the value of your interests in each tract. There are two parts to the Inventory: a SUMMARY and a DETAIL section. Additional information, including a legal

description of each tract and the Scholarship Fund contribution for each of yours interests, is included in the DETAIL section. Use the "Item" number for cross reference between the SUMMARY and the DETAIL section.

- Map(s): Shows the general location of the tracts of land that include your ownership interests, at the Township level.
- **Self-Addressed Return Envelope:** Allows you to return the completed Purchase Offer free of charge for processing by the Bureau of Indian Affairs (BIA).

**Note**: The Trust Beneficiary Call Center (1-888-678-6836) is available to assist you if there are additional questions.

### 59. What do I do when I receive a purchase offer?

- First, review the Deed and Purchasable Interests Inventory (Inventory) to assure your name and personal information are correct, and then determine whether to sell any or all of your ownership interests listed on the Inventory.
- If opting to sell, use the Purchasable Interests Inventory to fill in the bubble adjacent to each ownership interest the owner wishes to sell, or select the "Sell All Tracts" bubble if the owner wishes to sell all interests.
- Sign the Deed in front of a Notary Public to validate the signature notarized. A Notary Public is required to serve as the official witness.
- Return the original signed and notarized Deed, along with all pages of the Inventory (both the SUMMARY and the DETAIL sections), in the self-addressed, postage prepaid envelope provided. You must return the original documents in order for the sale to be processed.

### 60. Does my deed need to be notarized in the state in which my ownership interests are being sold?

No, the deed may be notarized in any US state.

#### 61. What if I decide not to sell?

Potential sellers who decide not to sell may disregard the offer package and do not need to respond to the Program about their decision not to sell. No further action by the Program will be taken.

### 62. Can I make changes to the deed?

No. The deed is a legal document. It must be filled out neatly and completely. White out, cross outs, or stray markings will void the document. If necessary, a new deed may be requested. The Call Center (1-888-678-6836) can assist with fulfilling this request.

### 63. How do I sign my name?

The owner must be sure to sign their name exactly as it appears on the signature line. If the owner's name is not correct on the Deed, the owner is encouraged to contact the Trust Beneficiary Call Center (1-888-678-6836) to assure that the Deed and IIM account information is accurate. This could mean a new purchase offer package may need to be generated.

### 64. Will I get a copy of the Deed that I returned?

The seller may make a copy of the signed, notarized Deed and Purchasable Interests Inventory before returning them. You must return the original documents in order for the sale to be processed. A copy of the Deed will not be provided by the Program once the conveyance is

completed. A copy of the deed can be requested from the BIA Realty Office.

### 65. Will I be contacted when the sale/conveyance is complete?

An Acknowledgement Notice will be mailed to each seller upon approval of the sale/conveyance, listing the amount deposited to the seller's IIM account for the purchase of the owner interests selected on the Purchasable Interests Inventory.

### 66. Can a seller retain their mineral rights while selling the surface?

Not under this program. The Land Buy Back Program will only purchase the whole interest (Mineral and Surface), which supports the Program's goal of consolidating fractional interests.

**Note:** Splitting the mineral interest and surface interest does not meet the intent of the Cobell Settlement as it does not reduce fractionation. You may contact your nearest BIA Agency Realty Office for more information.

### 67. Can an individual who only owns mineral rights sell?

Yes, a landowner who owns only mineral rights can sell those rights through the Buy Back Program to the tribe with jurisdiction.

### 68. Who did I inherit these interests from?

Individuals may contact the Call Center (1-888-678-6836) for assistance in determining who their interests were inherited from.

### 69. Will the tracts listed on my Purchasable Interest Inventory be the same as those listed on my Statement of Performance?

Not all of the tracts on your Statement of Performance may be on your Purchasable Interests Inventory. The Inventory will only list those tracts which the Program is offering to purchase.

### 70. I need more specific information about my land ownership interests. Where can I obtain additional assistance?

If you need further assistance about your land ownership interests before completing the purchase offer package, or if you have more specific questions on how the process works that cannot be answered through the Call Center, you may also visit your local tribal or FTO office.

### b. Time Frame

### 71. How long do I have to decide whether to sell all or some of my interests?

Purchase offers are valid for 45 calendar days from the date of the Cover Letter in the Offer Package. Signed deeds and the corresponding Purchasable Interests Inventory must be post-marked by the deadline indicated within the Cover Letter.

#### 72. What happens if I return my package and it's incomplete?

In order for your package to be processed, it must be returned to the Program with all pages of the required completed documents. These documents include the Purchasable Interests Inventory and notarized Deed. If any of the required documents are missing and time and resources allow, the Program may contact you and request the documents. If time and resources don't allow the Program to contact you, you may receive an offer if a second wave of offers is made for the area you own interests in.

### c. Payment Status

### 73. When and how will I be paid?

When your completed purchase package is received by the Buy-Back Program within the established timeframe, the Buy-Back Program will have 60 days to approve the purchase and process your payment. When BIA approves the purchase, payment will be made to your IIM account. The target time for any payment to be made into your IIM account will be two days after OST receives final approval from BIA.

### VIII. Cooperative Agreement Questions

Note: Questions from tribes regarding cooperative agreements should be directed to the Buy-Back Program office, not the Trust Beneficiary Call Center. The Cooperative Agreement Guidance document is available at <a href="http://www.doi.gov/buybackprogram/tribes/agreements.cfm">http://www.doi.gov/buybackprogram/tribes/agreements.cfm</a>.